

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

RAE ANDREACCHIO

PLAINTIFF

VS.

CIVIL ACTION NO.: 3:21-cv-00386-CWR-LGI

URGENT AND NECESSITOUS

VIDEO OR TELEPHONE
HEARING REQUESTED

KAREN YAX
a/k/a "The Critical Kay"

DEFENDANT

**PLAINTIFF'S SUPPLEMENTAL MOTION TO COMPEL
AND FOR SANCTIONS**

COMES NOW, Plaintiff Rae Andreacchio ("Ms. Andreacchio"), by and through counsel, pursuant to Fed. R. of Civ. Proc. 37 (a)(3)(A), and moves this Honorable Court for entry of an order requiring the Defendant Karen Yax ("Ms. Yax") to provide her Fed. R. of Civ. Proc. 26(a)/Local Rule 26 (a)(1)(A) disclosures and for sanctions, *to-wit*:

PROCEDURAL HISTORY

1. Ms. Andreacchio filed her Complaint on June 4, 2021. [Dkt. #1]. Summons was issued upon Ms. Yax that day. [Dkt. #2.]
2. On June 24, 2021, Ms. Yax filed her Answer, *pro se*. [Dkt. 3.]
3. On July 12, 2021, this Honorable Court entered its Rule 16 (a) Initial Order [Dkt. 4.] Therein, the Court sets the Telephonic Case Management Conference ("TCMC") for August 27, 2021.

4. Ms. Yax refused to communicate with undersigned counsel in anticipation of the TCMC. In response, Plaintiff filed her Motion to Compel. [Dkt. 5.] This Court, in turn, has scheduled a hearing on said motion for Wednesday, August 18, 2021, at 3:30 p.m. CDT. [Dkt. Entry, 8/10/21.]

MOTION

5. Local Rule 26 (a)(1)(A) requires the parties to provide their initial disclosures at least seven days before the TCMC. That deadline will occur on August 20, 2021. Plaintiff submitted her initial disclosures via email on August 13, 2021 [Dkt. 7.] A copy of this email, sans attachments, is depicted below:

Rule 26(A) initial disclosures

Matthew Wilson <starkvillelawyer@gmail.com>
To: The Critical Kay <kaykaydoo2@gmail.com>

Fri, Aug 13, 2021 at 8:27 PM

Ms. Yax

Please find our Rule 26 A initial disclosures, along with a notice that I will be filing with the Court documenting my service of the same to you.

Do you have an estimate of when you will have your disclosures ready for us?

Thanks

Matt Wilson



Virus-free. www.avast.com

2 attachments

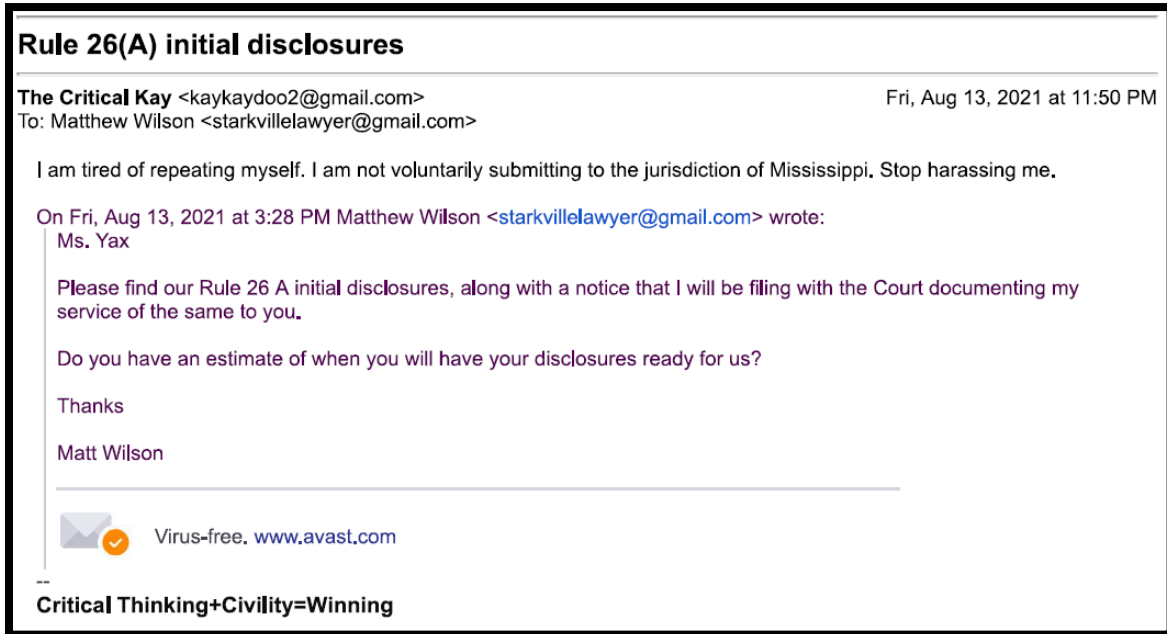


Andreacchio Rule 26 disclosures -- notice of service.pdf
96K



Andreacchio Rule 26 disclosures.pdf
153K

6. Later that evening, Ms. Yax responded to the aforesaid email. Her response is as follows:



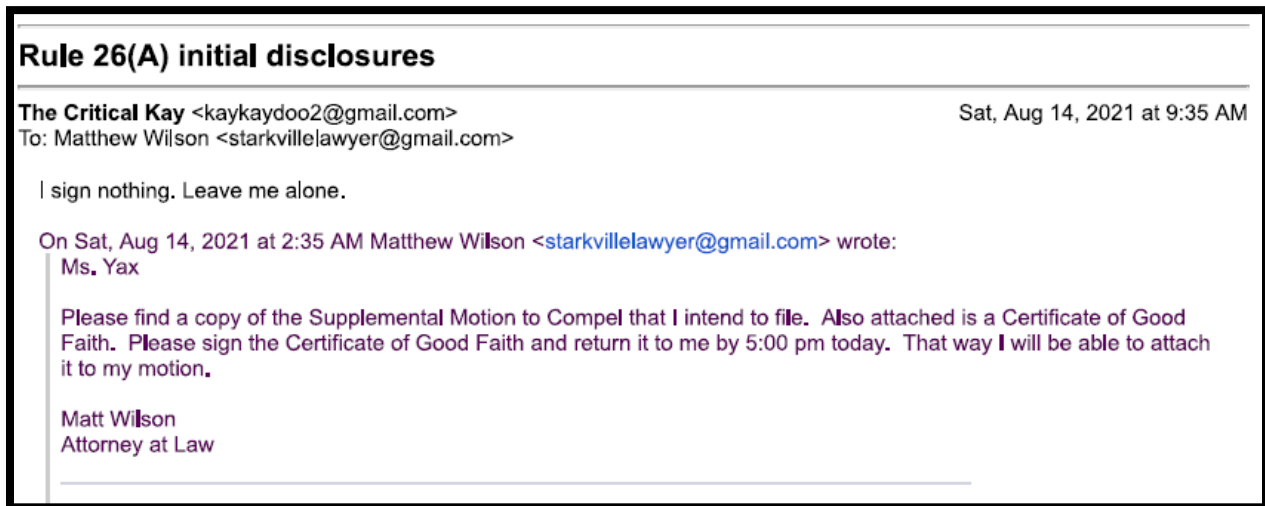
7. Although the deadline for providing disclosures has yet to elapse, Local Rule 26 (a) (3) states, in pertinent part:

... The failure to take immediate action and seek court intervention when a known fact disclosure violation ... occurs will be considered by the court in determining the appropriate sanctions to be imposed regarding a subsequent motion filed under FED.R.CIV.P.37(c).

In view of Ms. Yax's email, it appears that she does not intend to comply with the Court's rules. Therefore, pursuant to the aforesaid Local Rule 26(a)(3), Plaintiff seeks "immediate action and court intervention."

8. Since the parties will be before the Court on August 18, Plaintiff believes that the timing of this motion will conserve judicial resources as the Court may be inclined to address these issues at that hearing.

9. Plaintiff sent an earlier draft of this motion to Ms. Yax along with a proposed Certificate of Good Faith, asking her to sign the same. Ms. Yax has refused to sign the Certificate of Good Faith, as evidenced by the email below and counsel's declaration pursuant to 28 U.S.C. § 1746, which is attached hereto as Exhibit "A":



10. Plaintiff seeks sanctions, up to and including attorney's fees, citation of contempt, or any other appropriate sanction.

PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, the Plaintiff prays for entry of an order compelling Defendant to provide her Rule 26(a) initial disclosures, along with appropriate sanctions to be determined by the Court.

Plaintiff also prays for general relief.

Respectfully submitted this the 14th day of August 2021.

RAE ANDREACCHIO

/s/Matthew Wilson

By:

Matthew Wilson, MSB No. 102344

Prepared by:
Matthew Wilson (MS Bar #102344)
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CERTIFICATE OF SERVICE

I, Matthew D. Wilson, do hereby certify that I have served the foregoing
Supplemental Motion to Compel upon the following party via email:

Ms. Karen Yax
kaykaydoo2@gmail.com

Respectfully submitted this the 14th day of August 2021.

/s/Matthew Wilson
By: _____
Matthew Wilson